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REMARKS

The present amendment is responsive to the Final Office Action issued July 2, 2003. Submitted concurrently with this amendment is a PTO for 2039, authorizing the Office to charge the specified credit card with the 37 CFR §1.17(a)(1) fee for a 1 month extension of time to November 2, 2003.

Claims 1-5, 8-13, 15-19, 22-27, 29-33 and 36-41 were rejected under 25 USC §102(b) as being anticipated by Healy et al. (US 6,298,328). Furthermore, claims 6, 7, 20, 21, 34 and 35 were rejected as being unpatentable over Healy et al. in view of Evans & Berman. Reconsideration and withdrawal of these rejections are respectfully requested, for the following reasons.

The Office appears to advance the following arguments in the outstanding Final Office Action:

- 1) that Healy et al. do categorize individual customers (page 9, paragraph a);
- 2) that "propensity-to-buy" is a likelihood or probability that a customer will buy and a measure of whether the customer is a good prospect of being marketed to by a business (page 9, paragraph b);
- 3) that the claimed "lifecycle factor" method is not sufficiently precise to rule out a forecast or a growth rate as a comparison method (page 10, paragraph d);
- 4) that Healy et al. teach categorizing a customer because they teach geography, market segments and demographics (Page 10, paragraph e), and
- 5) that product lifecycle is relevant to the stages of a customer ...because said product lifecycle provides the means for categorizing customers (page 11, paragraph f).

Each of these will be addressed in turn, using the same numbering scheme as above.

- 1) **Healy et al. do not categorize individual customers, as required by the independent claims.**

The pending independent claims have been amended to recite that the claimed methods,

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media and computer systems are drawn to categorizing an individual customer. In contrast, Healy et al. is not drawn to categorizing individual customers, but only to sizing markets and populations, as demonstrated in the passages reproduced below:

Using a general-purpose computer, the system allocates, tracks, and forecasts market data by product, geographic area, market segment, provider, and time period, in a way consistent with accepted regional market sizes. Inputs include regional market data, demographic, psychographic, and/or firmagraphic data, weighting coefficients, profiles, and ratings. The system allocates regional markets to subregions as defined by an area hierarchy. Allocation fractions are computed as ratios of subregional to regional rated buying populations. A subregional rated buying population is a weighted sum of rated buying populations for a set of market factors such as age or household income. A rated buying population for a particular market factor is the sum of rated buying populations for a set of categories such as age or income brackets. A rated buying population for a particular category is the product of the subregional population falling within that category and a propensity-to-buy rating for that category. Weighting coefficients are used to refine the market allocations and calibrate the system outputs to the real world. The system integrates external subregional market size values with allocated values, adjusting all related computed values so that at each level of the area hierarchy the sum of the subregional allocations still equals the accepted value for the parent region. System outputs in the form of graphs, spreadsheets, maps, or other format can be delivered electronically through various media. (Abstract)

The demographic, psychographic, and/or firmagraphic data used in allocating the markets relates to a set of one or more selected market factors. For each market factor, there is a set of categories such as age brackets (e.g., 40-50 years of age), income brackets (e.g., \$30,000-40,000 annual income), or occupations (e.g., machine operators). For each category, the data contains the subregional population falling within that category, e.g., the population that is 40-50 years old or the population that has \$30,000-40,000 annual income. The term "population" is broadly defined here and might be persons, households, companies, or any other appropriate unit. Population units vary with the market factor being used. (Col. 5, line 65 to Col. 6, lines 11)

Therefore, the allocation of markets, according to Healy, is carried out not for individual customers, but for populations, defined according to selected market factors such as age, household income or occupation. It is understood that populations and categories are made up of individual customers having a number of characteristics, as advanced in the outstanding Office Action. However, Healy et al. do not teach or suggest categorizing any single customer, but only teaches sizing markets or populations, such as the 40-50 year old market, the market of those

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earning between \$30,000 and 40,000, for example.

The Office's attention is drawn to the preambles of the pending independent claims, which recite that the claimed method is a method for categorizing a customer. The body of the claim recites specific steps to accomplish this method for a customer. Healy does not categorize a customer. Healy et al.'s method is to size a market in a subregion of a region, as demonstrated above. Healy et al. are unconcerned with categorizing a single customer, as their method is limited to populations of customers and markets of customers. "This invention relates to an apparatus, method, and system that satisfies the need to produce consistent, reliable, refinable localized market data". Column 1, lines 49-52. The end result of the Healy invention is recited in the Healy claims; namely, to "outputting said market size... which aids in marketing products or services". In contrast, the amended independent claims recite "computing a lifecycle factor for the individual customer". Healy does not compute a lifecycle for an individual customer - but instead categorizes populations. This is clear from Healy's specification, as disclosed in Col. 6, lines 33-36,

"In step 706, the rated buying population for the category is computed by multiplying the propensity-to-buy rating by the population falling within the category."

Thus, Healy cannot be said to teach any method of categorizing a single customer, as claimed herein. Therefore, the anticipation rejection applied to each of the independent claims must fall, as being in error.

2) Healy does not define her "propensity-to-buy" rating as the likelihood or probability that a customer will buy and/or a measure of whether the customer is a good prospect of being marketed to by a business

Healy's "propensity-to-buy" rating is not defined as the likelihood that a customer will buy, nor is it a measure of whether the customer is a good prospect of being marketed to by a business. Instead, Healy "propensity-to-buy" rating is a value that is assigned to a population, and not to an individual customer, as claimed herein. See, for example, Col. 6, lines 8-16:

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"The term "population" is broadly defined here and might be persons, households, companies, or any other appropriate unit. Population units vary with the market factor being used.

For each category of each market factor, the profiles and ratings data includes a propensity-to-buy rating. For example, a propensity-to-buy rating would be assigned to the population that is 40-50 years old. This could be a value on a scale of 1 to 100 or any other scale."

Therefore, the "propensity-to-buy" rating is assigned not to individuals, but to populations, whether such populations are defined as a grouping of a plurality of persons, households or companies. In any event, the "propensity-to-buy" rating is assigned to populations and not to a single or individual customer, as claimed herein.

The Examiner's attention is also drawn to the title of Healy's patent "Apparatus, Method, And System for Sizing Markets" (and not individuals), to the claims "Method ...for sizing a market... in a subregion of a region", and throughout the specification. Therein Healy only discusses drawing marketing conclusions from populations and markets, and not from an individual customer, as claimed herein.

Therefore, the "propensity-to-buy" rating, contrary to the Examiner's assertion, cannot anticipate the claimed step of "selecting a measure on which the status of the individual customer is to be analyzed", as this rating is defined in the applied reference as a rating for populations (e.g., 40-50 year olds), and not for an individual customer, claimed herein. This distinction alone warrants reconsideration and withdrawal of the outstanding §102 rejections of the claims.

3) **The claimed "lifecycle factor" method is, in fact, sufficiently precise to rule out Healy's forecast or a growth rate as a comparison method**

The recited lifecycle factor is, in fact, defined in such a manner as to distinguish the claims from a forecast or growth rate. Each independent claim recites:

"computing a lifecycle factor for the individual customer, the lifecycle factor being related to both a size and a growth of the individual customer according to the selected measure, both the size and growth being determined over two selected historical calculation periods using the selected comparison method"

and claims 14, 28 and 42, as amended, each recite:

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"the lifecycle factor is computed by determining an absolute value of a difference of the selected measure and by multiplying the determined absolute value with a percentage measure growth of the selected measure, both the difference and the percentage measure growth being determined over two selected historical periods according to the selected comparison method."

The claimed lifecycle factor, therefore, has the following attributes:

- it is related to the size and the growth of the individual customer according to the selected measure;
- it is computed over two selected historical calculations periods using a selected comparison method;
- it is computed by multiplying the absolute value of the difference of the selected measure with a percentage growth of the selected measure;
- it is based on historical calculation periods.

Therefore, it is respectfully submitted that the definition of "lifecycle factor" in the pending claims is sufficiently precise as to distinguish the claimed inventions from Healy's forecasts or growth rates, which relate solely to forecasts and growth rates for selected markets and populations. Again, this distinction is believed to be sufficient to warrant reconsideration and withdrawal of the 35 USC §102(e) of the claims. The same is, therefore, respectfully requested.

4) Healy's teaching of geography, market segments and demographics, does not operate to anticipate any of the claimed steps

Healy et al. does not teach categorizing an individual customer because they teach geography, market segments and demographics. Geography, market segments and demographics are all related to populations, and not to individual customers. The claimed invention is a method of categorizing an individual customer comprising the recited steps. None of these steps

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call for evaluating data representative of a population, whether over a given market segment, over a predetermined geographical area or any predetermined demographic strata. Each of the steps of the claimed method relate only to an individual customer. This is emphasized in Healy, at Col. 5, line 66 to Col. 7, line 8:

The demographic, psychographic, and/or firmagraphic data used in allocating the markets relates to a set of one or more selected market factors. For each market factor, there is a set of categories such as age brackets (e.g., 40-50 years of age), income brackets (e.g., \$30,000-40,000 annual income), or occupations (e.g., machine operators). For each category, the data contains the subregional population falling within that category, e.g., the population that is 40-50 years old or the population that has \$30,000-40,000 annual income. The term "population" is broadly defined here and might be persons, households, companies, or any other appropriate unit. Population units vary with the market factor being used.

Healy fails to anticipate the claimed invention, as it does not disclose any of the recited steps and does not achieve the claimed result of categorizing an individual customer.

5) The claimed lifecycle factor is independent of Healy's product lifecycle and the product lifecycle does not provide the means for categorizing an individual customer

The Office states that Healy et al. fails to teach each individual stage of the product life cycle, and that such teaching is provided by Evans & Berman. However, it is respectfully submitted that even if Evans & Berman teach individual stages of a product lifecycle, such teaching would be irrelevant to the claimed inventions. Contrary to the Office's assertion, the product lifecycle is, in fact, independent of a customer's lifecycle factor. The claimed invention does not recite using the product lifecycle in determining the customer's lifecycle factor, as advanced in paragraph f) on page 11 of the outstanding Office Action. Indeed, a product that is being purchased by a customer may be in a declining phase and that same customer may be categorized as growing, or vice versa. The lifecycle of a product may or may not have a bearing on the lifecycle of a customer. Alternatively, a given individual customer may be purchasing some products that are in a growing phase and some products that are categorized as being in a declining phase - and that individual customer might be categorized as stable, neither growing or declining. Therefore, it is respectfully submitted that the Examiner's arguments and bases for

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rejecting the claims are in error.

In support of the §103(a) rejections, the outstanding Office Action further states that "dividing the product lifecycle into four phases ... and further dividing the declining phase onto declining, defected and insignificant would have been obvious". As stated previously, the undersigned has no opinion as to the obviousness of such an action. However, such action has no bearing upon the claimed invention, as the claimed invention is related to the categorization of individual customers by carrying out the recited steps, and not the categorization of the lifecycle of a product or service, which are believed to be independent, for the reasons given above. It is respectfully submitted, therefore, that a combination of Healy et al. and Evans & Berman would not have led the person of ordinary skill in the art to develop the claimed methods, systems and media of the present application. It is respectfully submitted that the Office is not at liberty to disregard selected limitations of the pending claims to fit the bounds of an applied reference or combination of references. Healy teaches the sizing of markets (see Healy's claims, abstract, title and entire specification), whereas Evans & Berman teach product lifecycles. The claimed inventions, on the other hand do not size markets and do not consider product lifecycles. How then can Healy anticipate the pending claims and the Healy - Evans & Berman combination render the above-listed claims obvious? The answer is that they cannot, as they do not teach or suggest any method of categorizing an individual customer, as claimed, whether such references are considered singly or in combination, for the reasons given above. Reconsideration and withdrawal of the anticipatory obviousness rejections are, therefore, respectfully requested.

Applicant's attorney, therefore, respectfully submits that all claims are allowable and that the present application in condition for an early allowance and passage to issue. If any unresolved issues remain, please contact the undersigned attorney of record at the telephone number indicated below.

Respectfully submitted,

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